

Aaron D. Felton, OSB #94303
afelton@cityofsalem.net
City of Salem Legal Department
555 Liberty Street SE, Room 205
Salem, OR 97301-3513
Tel: (503) 588-6003
Fax: (503) 361-2202
Of Attorneys for Defendant City

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ROBERT EVANS MAHLER,)
)
Plaintiff,)
)
v.)
)
BERNARD F. BEDNARZ JR., individually)
and dba BC WEB LLC; WILLAMETTE)
TABLE TENNIS CLUB, INC; CITY OF)
SALEM, OREGON; SALEM (OREGON))
POLICE DEPARTMENT; LYLE)
GEMBALA, individually and as Deputy)
Chief of the City of Salem (Oregon) Police)
Department; DOES 1-20,)
)
Defendants.)

No. 06-CV-00532-HO

**DEFENDANTS GEMBALA, CITY
OF SALEM, AND SALEM POLICE
DEPARTMENT'S PRE-TRIAL
WITNESS LIST**

The Defendants expect to call the following witnesses at trial in this matter:

Deputy Chief Lyle Gembala

If called to testify, it is anticipated that Gembala will offer the following testimony. He is employed by the Salem Police Department, currently holding the rank of Deputy Chief. He has been a member of the Downtown Salem Rotary Club since 1986. Gembala knows that defendant Bednarz is also a member of that club, but prior to this incident had not had a personal conversation with him.

In 2006, Bednarz contacted Gembala regarding a disagreement he was having with a fellow member of a table tennis club he belonged to regarding ownership of club property. Upon hearing the details of the disagreement, Gembala contacted the other individual (Mahler) to obtain his side of the dispute. After hearing out both parties, Gembala concluded that it was a purely civil matter and it involved no criminal activity. Gembala will testify that he asked for a follow up investigation to be done by a property crimes investigator. This was done by Detective Paul Henninger who also concluded that the matter was purely civil and that no crime had occurred. Gembala will testify that at no point was he aware of any disability on the part of Mr. Mahler.

Sergeant Keith Blair

If called to testify, Sergeant Blair will offer the following testimony. He is currently employed as a police officer for the City of Salem and was so employed on April 7, 2006. He was alerted by Deputy Chief Gembala of a disagreement between members of a local table tennis club. According to Gembala, a primary focus of the disagreement was ownership of certain ping pong tables located at the Salem Senior Center. At the time, Blair was the patrol sergeant assigned to the area of Salem in which the Senior Center was located. On April 8, 2006, Blair was present at the Salem Senior Center when the plaintiff reported that defendant Bednarz was unlawfully removing the tables from the center. Based on his own investigation and the background Gembala had given him, Blair determined the matter to be a purely civil disagreement between parties with equal possessory interests to the ping pong tables and that no crime was taking place in his presence.

Detective Paul Henninger

If called to testify, it is anticipated that Detective Henninger will offer the following testimony. On May 24, 2006, Henninger was assigned to investigate a dispute between members of

the Salem Table Tennis Club involving allegations of fraud and theft. As part of his investigation, Henninger reviewed a written report by Sergeant Blair as well as speaking to him in person. Henninger also spoke with the plaintiff and defendant directly and reviewed written documents provided by both parties. Henninger did not speak with Deputy Chief Gembala prior to beginning his investigation. Henninger concluded that the issue was an internal dispute among club members over ownership of club assets. He felt that it was a matter best sorted out through some sort of civil or other neutral process.

Henninger presented the details of his investigation to Marion County Deputy District Attorney, Don Abar, who determined there was insufficient evidence to pursue criminal charges and that the matter was civil in nature. Henninger will testify that at no time did he feel that Deputy Chief Gembala attempted to influence the outcome of his independent investigation in any manner nor did plaintiff's alleged disability play any role in Henninger's conclusion.

Lieutenant Mark Keagle

If called to testify, it is anticipated that Lieutenant Keagle will offer the following testimony. Lieutenant Keagle knows the plaintiff from police incidents which took place prior to the filing of this lawsuit. Keagle was also the personal recipient of a Complaint and Summons served by plaintiff on the City and Gembala.

DATED this 4th day of February, 2008.

Respectfully submitted,
CITY OF SALEM LEGAL DEPARTMENT

/s/Aaron D. Felton

Aaron D. Felton, OSB #94303

Assistant City Attorney

Tel: (503) 588-6003

Fax: (503) 361-2202

Email: afelton@cityofsalem.net

Of Attorneys for Defendants